

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

2014 JAN 13 P 3:25

MARILU C. VARESI

Plaintiff,

Civil Action No.  
U.S. DISTRICT COURT  
DISTRICT OF RHODE ISLAND

v.

AETNA, aka AETNA, INC., and/or  
THE AETNA LIFE INSURANCE  
COMPANY

Defendants.

CA 14 - 255

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF RHODE ISLAND:

The defendant herein, Aetna Life Insurance Company ("Aetna") s/h/a Aetna, aka Aetna, Inc., and/or The Aetna Life Insurance Company, by its attorneys, Pierce Atwood, LLP, respectfully represents as follows:

1. On or about December 31, 2013 an action was commenced against Aetna, in the Superior Court of the State of Rhode Island, Providence County, by plaintiff Marilu C. Varesi ("Varesi"). The suit is identified in the Superior Court of the State of Rhode Island, Providence County, as *Marilu C. Varesi v. Aetna, aka Aetna, Inc., and/or The Aetna Life Insurance Company*, Civil Action No.: 2013-6561 (the "Action").

2. The Summons and Complaint is the initial pleading sent to Aetna upon which this action is based. The plaintiff mailed a copy of the Summons Complaint to Aetna on January 2, 2014. The Complaint alleges that defendant Aetna failed to pay the plaintiff short term disability ("STD") and long term disability ("LTD") benefits under the Bank of America Corporation Employee Benefit Plan (the "Plan"). A copy of the Summons and Complaint is attached hereto as **Exhibit "A."**

3. The Complaint is the first paper received by Aetna in which plaintiff alleges a claim establishing the existence of federal question jurisdiction and consequently, this action is removable to this Court pursuant to 28 U.S.C. §1446(b).

4. The filing of this notice of removal is timely because it is within thirty (30) days of the date Aetna first received notice that this action became removable on the basis of federal question jurisdiction under 28 U.S.C. §1331.

5. The basis for federal question jurisdiction is that the plaintiff's claims relate to an employee welfare benefit plan (29 U.S.C. §1002(1)) because the above named plaintiff was allegedly eligible for STD and LTD benefits through her enrollment in the Plan. (Exhibit "A"). The Plan is an employee welfare benefit plan established and maintained by an employer for the benefit of its employees. As a result, plaintiffs state law claims against Aetna under the Plan are completely preempted by the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et seq.*, as amended ("ERISA"). Pursuant to 29 U.S.C. §1132(e)(1) the Action is removable to federal court. *See Aetna Health, Inc. v. Davila*, 542 U.S. 200 (2004); *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987).

6. Accordingly, the above-referenced action is one in which this Court has original jurisdiction under 28 U.S.C. §1331 and is one that may be removed to this Court by Aetna, pursuant to the provisions of 28 U.S.C. §1441 (a) in that it is a civil action where the Complaint alleges a federal question.

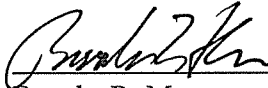
7. A true and correct copy of this Notice of Removal is being filed this day in the Providence County, Rhode Island, Superior Court.

8. By filing this Notice, Aetna does not waive its right to object to service, service of process, the sufficiency of process, venue, or jurisdiction, and specifically reserve the right to assert any defenses and/or objections to which it may be entitled.

**WHEREFORE**, petitioner Aetna prays that this Action stand removed to this Court.

Dated: Providence, Rhode Island  
January 13, 2014

PIERCE ATWOOD, LLP,



Brooks R. Magratten, #3585

*Attorneys for Defendant*

AETNA LIFE INSURANCE COMPANY

72 Pine Street #500

Providence, RI 02903

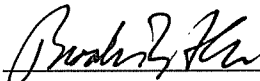
(401) 490-3422

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**CERTIFICATE OF SERVICE**

I, Brooks R. Magratten, pursuant to 28 U.S.C. §1746 hereby certify under penalty of perjury that a true and correct copy of the attached **NOTICE OF REMOVAL** was served via regular mail on this 13th day of January 2014, upon the following:

Bernard P. Healy  
*Attorney for the Plaintiff*  
750 East Avenue  
Pawtucket, RI 02860



BROOKS R. MAGRATTEN